

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6

7 IN THE UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ANTHONY PELAYO,

11 Petitioner,

12 v.

13 UNITED STATES OF AMERICA,

14 Respondent.

CASE NO. C24-0815-JCC

STIPULATION AND ORDER
STAYING CASE PENDING NINTH
CIRCUIT DECISION

Noted for August 20, 2024

15 IT IS HEREBY AGREED AND STIPULATED by the Petitioner,
16 Anthony Pelayo, through his attorney, Neil M. Fox, and the Respondent, the
17 United States of America, by and through Tessa M. Gorman, United States
18 Attorney for the Western District of Washington, and Michael Lang, Assistant
19 United States Attorney for said District, that this matter be stayed pending the *en*
20 *banc* decision of the Ninth Circuit Court of Appeals in *United States v. Steven*
21 *Duarte*, No. 22-50048.
22
23

24 On May 9, 2024, a divided panel of the Ninth Circuit issued an opinion in
25 *United States v. Duarte*, 101 F.4th 657 (9th Cir. 2024), finding 18 U.S.C. §
26

1 922(g)(1) unconstitutional under the Second Amendment as the statute was
2 applied to the defendant. On July 17, 2024, the Ninth Circuit issued an order,
3 over dissent, vacating the panel opinion and ordering the case to be reheard *en*
4 *banc*. *En banc* oral argument will be scheduled the week of December 9, 2024.

5 While the issues in *Duarte* are not dispositive of the issues in the instant
6 case, the parties agree that the *en banc* decision in *Duarte* will likely be
7 informative to the parties and the Court. Accordingly, the parties agree to stay
8 the instant case pending the outcome of *Duarte* in the Ninth Circuit.
9

10 DATED this 20th day of August 2024.
11

12 Respectfully submitted,
13

14 s/ Neil M. Fox
15 Attorney for Petitioner
16

17 TESSA M. GORMAN
18 United States Attorney
19

20 s/ Michael Lang
21 Assistant United States Attorney
22

23
24
25
26

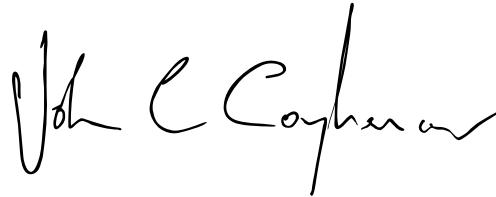
1 ORDER
2

3 Based upon the stipulation of the parties (**Dkt. No. 7**) and for good cause
4 shown,
5

6 IT IS SO ORDERED.
7

8 This matter is stayed pending the outcome of the *en banc* decision of the
9 Ninth Circuit Court of Appeals in *United States v. Steven Duarte*, No. 22-50048.
10 The Petitioner's counsel shall provide the Court with an updated status report by
11 January 1, 2025. When the stay is lifted, the parties shall meet and confer to
12 propose a schedule to the Court for the filing of (1) a Supplemental
13 Memorandum of Law by Petitioner, and (2) the Answer of the United States.
14

15 Dated: August 21, 2024.
16
17



21 THE HONORABLE JOHN C. COUGHENOUR
22
23
24
25
26